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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,678	10/07/2003	James C. Crone	5164-001	5430

24112 7590 08/23/2004

COATS & BENNETT, PLLC  
P O BOX 5  
RALEIGH, NC 27602

EXAMINER
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ZEENDER, FLORIAN M

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/680,678

**Applicant(s)**

CRONE, JAMES C.

**Examiner**

F. Ryan Zeender

**Art Unit**

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/7/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

Claim 14 is objected to because of the following informalities: The terminology, "said point of sale stations" lacks antecedent basis. Appropriate correction is required.

### ***Claim Rejections - 35 USC §101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-7 and 9-10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, claims 1-7 and 9-10 only recite an abstract idea. The recited steps of merely selling a meal, collecting a price, and transferring an amount, do not

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necessarily apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper. These steps only constitute an idea of how to facilitate charitable contributions.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention produces a manner to give to charity which meets the "useful, concrete, and tangible" criteria.

Although the recited process produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claims 1-7 and 9-10 are deemed to be directed to non-statutory subject matter.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 11-14, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helbling '518.

Helbling discloses means of facilitating charitable giving by a restaurant, including: selling a reduced portion meal product (i.e., meal without a beverage, *since beverages are free with donation; see for example, Col. 4, lines 42-47*) at a customer price higher than the reduced portion meal price (i.e., reduced meal price plus excess

minimum donation amount); transferring the excess amount to a charity on behalf of the customer.

Helbling lacks the teaching of the customer price corresponding to the full-portion meal product price (i.e., reduced portion meal price plus beverage price); and transferring only part of the excess amount to charity.

It would have been an obvious design choice at the time of the invention to have the customer price correspond to the full portion meal price (i.e., have the minimum donation amount equal the beverage price) in order for the charities to receive more money without the customers feeling like they've overpaid.

Further, specifically regarding claims 1, 4, 11, and 20; it is well known in business for a company to receive a processing/handling/operating fee for work performed, therefore, it would have been obvious to one of ordinary skill in the art to transfer only part of the excess amount to charity.

Re claims 3 and 19: See Helbling, Col. 4, lines 29-30.

Re claim 5: See Helbling, Col. 4, lines 35-38.

Re claims 6 and 12: See Helbling, Col. 4, lines 42-43.

Re claim 14: It is well known for fast food franchises to include multiple restaurants.

Claims 7-10 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helbling '518, as applied to claims 1 and 11 above, and further in view of Burke '682.

Helbling teaches the limitations of the claims, as described above, but lacks the specific teaching of the customer providing a unique identifier, tracking customer donations across multiple sales, and providing the customer with a summary of donations over a predetermined period.

Burke teaches a similar means for facilitating charitable contributions including the use of a magnetic stripe donor card (see for example, Col. 3, lines 21-23) that tracks customer donations and prints out periodic reports (see for example, Col. 2, lines 58-59).

It would have been obvious to one of ordinary skill in the art to modify Helbling to have the customer provide a unique identifier, track customer donations across multiple sales, and provide the customer with a summary of donations over a predetermined period, as taught by Burke, in order to provide the customer with accurate records for tax purposes (See for example Burke, Col. 12, lines 63-65).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (703) 308-8351. The examiner can normally be reached on Monday-Friday, 8am-5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (703) 308-5183. The receptionist's phone number for the Technology center is (703) 308-1113.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

F. Zeender  
Primary Examiner, A.U. 3627  
August 18, 2004

A handwritten signature in black ink, appearing to read 'RZ' followed by a horizontal line and the date '8/18/04'.

**F. RYAN ZEENDER**  
**PRIMARY EXAMINER**